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## **Emergency Preparedness and Continuity of Operations (COOP) Planning in the Federal Judiciary**

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# Emergency Preparedness and Continuity of Operations (COOP) Planning in the Federal Judiciary

## Summary

Following the current disruption of operations in several courts in Alabama, Louisiana, and Mississippi due to Hurricane Katrina, the September 2001 terrorist attacks, subsequent anthrax incidents that briefly affected the Supreme Court, and occasional warnings of potential natural and man-made incursions that could interrupt court operations, judicial branch policymakers and administrators have given renewed attention to crisis response, emergency planning, and continuity of operations (COOP) issues. In the federal judiciary, COOP planning is an extension of court emergency preparedness plans designed to safeguard lives and property during emergencies.

The federal judiciary is highly decentralized, both geographically and administratively. Consequently, emergency and COOP planning is carried out locally, according to guidelines issued by the Administrative Office of the United States Courts (AOUSC). Each federal court, aside from the Supreme Court, which has dedicated facilities and security procedures that are not considered in this report, is responsible for planning for its continued operation in the event of a disaster or other potential operational interruption.

Prior to September 2001, the federal judiciary had engaged in efforts to improve security in court facilities. After the attacks, AOUSC recommended the designation of a senior court executive in every court to coordinate and be responsible for developing appropriate procedures for emergency preparedness, and COOP. AOUSC also recommended that the courts coordinate their planning activities with the Federal Emergency Management Agency (FEMA) and local federal executive agencies.

This report discusses actions taken by AOUSC following the September 11 attacks, and describes expectations for emergency preparedness and COOP plans in the judiciary. Other sections address issues and policy questions Congress might consider, including matters of the status of judicial emergency and COOP preparedness, and funding for future policy and oversight questions regarding judicial contingency planning.

This report is one of several CRS products related to government emergency preparedness and contingency planning, and will be updated as events warrant. CRS Report RS22244, *Legislative Initiatives to Temporarily Relocate Federal Courts Interrupted by Natural or Man-made Disasters, 109th Congress* discusses legislative activity to assure continued operation of federal courts following a range of significant operational interruptions. Issues related to executive branch COOP activities are discussed in CRS Report RL32752, *Continuity of Operations (COOP) in the Executive Branch: Issues in the 109th Congress*, and CRS Report RL31857, *Executive Branch Continuity of Operations (COOP): An Overview*. COOP planning in Congress is addressed in CRS Report RL31594, *Congressional Continuity of Operations (COOP): An Overview of Concepts and Challenges*.

## Contents

Introduction .....	1
Legislative Proposals, 109 <sup>th</sup> Congress .....	3
Actions by the Administrative Office of the U.S. Courts .....	3
Occupant Emergency Program Plans .....	4
Continuity of Operations Plans .....	5
Issues .....	9
Role of the Courts in an Emergency .....	9
Issue Immediacy .....	10
Budgetary Constraints .....	10
Policy and Oversight Questions .....	10
Related CRS Products .....	11
Continuity of Operations .....	11

# Emergency Preparedness and Continuity of Operations (COOP) Planning in the Federal Judiciary

## Introduction

Following the current disruption of operations in several courts in Alabama, Louisiana, and Mississippi due to Hurricane Katrina, the September 2001 terrorist attacks, subsequent anthrax incidents that briefly affected the Supreme Court, and occasional warnings of potential natural and man-made incursions that could interrupt court operations, judicial branch policymakers and administrators have given renewed attention to crisis response, emergency planning, and continuity of operations (COOP) issues. COOP planning in the federal judiciary is an extension of court security and emergency preparedness plans designed to safeguard lives and property during emergencies.<sup>1</sup>

While much of the current focus on contingency planning grows out of the aftermath of the autumn 2001 attacks, continuity of operations planning is an ongoing effort that predates the attacks, and grows out of efforts to prepare courts to withstand disasters and other unforeseen occurrences.<sup>2</sup> At the federal level, judicial COOP planning is related to efforts established during the Cold War to preserve the continuity of government (COG) in the event of a nuclear attack on the United States.<sup>3</sup> Cold War era COG planning reportedly focused on preserving the senior leadership of each branch of government, including the Chief Justice of the United States and Associate Justices of the Supreme Court. These plans reportedly included locating and evacuating these individuals to secure, alternative operational facilities outside of the District of Columbia in the event of a nuclear attack.<sup>4</sup> Similarly, it is

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1 "Emergency Preparedness in the Judiciary," *The Third Branch*, vol. 33 no. 11, Nov. 2001, available at [<http://www.uscourts.gov/ttb/nov01ttb/emergency.html>], visited Sept. 8, 2005.

2 See National Association for Court Management, *Disaster Recovery Planning for Courts: a Guide to Business Continuity Planning* (Williamsburg: National Association for Court Management, 2000), pp.1-45.

3 For a more comprehensive analysis of COG, see CRS Report RS21089, *Continuity of Government: Current Federal Arrangements and the Future*, by Harold C. Relyea.

4 See Edward Zuckerman, *The Day After World War III* (New York: Viking, 1984), pp. 44-66, 211-238; Ted Gup, "The Doomsday Plan," *Time*, Aug. 10, 1992, pp. 32-39; and Bruce G. Blair, John E. Pike and Stephen I. Schwartz, "Emergency Command Posts and the Continuity of Government," in Stephen I. Schwartz, *Atomic Audit: The Costs and Consequences of U.S. Nuclear Weapons Since 1940* (Washington: Brookings Institution Press, 1998), pp. 210-214. Similar contingency plans were reportedly developed for Congress and the executive branch officials in the line of presidential succession. See *ibid.*; Ted Gup, "The Last Resort," (continued...)

reported that contingency plans are currently in place to assure the protection of the Justices of the Supreme Court, but the details of these plans are not public information. On an operational level, the Court reportedly maintains emergency preparedness contingency plans to safeguard its facilities and personnel. Supreme Court contingency planning and emergency procedures are not considered in this report, due to their sensitive, non-public nature.

Beyond the Supreme Court, the federal judiciary is highly decentralized, both geographically and administratively. The courts are dependent on executive branch agencies for the provision of office and courtroom space, and physical security. The Public Buildings Service of the General Services Administration (GSA) provides building accommodations to the courts, and is responsible for the development and implementation of occupant emergency plans for those facilities. Security is provided by the United States Marshals Service (USMS), which protects judicial officers and employees, as well as attorneys and jurors.<sup>5</sup> The Federal Protective Service (FPS), an entity within the Department of Homeland Security, also provides physical security in some buildings that house court facilities.<sup>6</sup> Consequently, judicial emergency and COOP planning is carried out at the local level, according to guidelines issued by the Administrative Office of the United States Courts (AOUSC). Each federal court, in consultation with the appropriate executive branch agencies, is responsible for planning for its continued operation in the event of a disaster or other interruption.

The next section of this report discusses legislative initiatives in the 109<sup>th</sup> Congress that could enable courts to sit outside their circuits and districts if suitable facilities are unavailable due to a disaster. Subsequent sections describe actions taken by AOUSC following the September 11 attacks, and describes expectations for occupant emergency programs (OEP) and COOP plans in the judiciary. The final two sections address issues and policy questions Congress might consider, including matters of the status of judicial emergency and COOP preparedness, and future policy and oversight questions regarding judicial contingency planning.

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<sup>4</sup>(...continued)

*Washington Post Magazine*, May 31, 1992, pp. 11, 13-15, 24-27; Kenneth J. Cooper, "Hill Leaders 'Regret' Reports on Bomb Shelter Site," *WashingtonPost*, May 30, 1992, p. A1.

For more information on presidential succession, see CRS Report RL31761, *Presidential and Vice Presidential Succession: Overview and Current Legislation*, by Thomas H. Neale.

<sup>5</sup> This information was obtained at the USMS website, available at [<http://www.usmarshals.gov/duties/courts.htm>], visited Sept. 8, 2005.

<sup>6</sup>Until the creation of the Department of Homeland Security, FPS was unit of GSA.

## Legislative Proposals, 109<sup>th</sup> Congress

Following the current disruption of operations in several courts in Gulf Coast states due to Hurricane Katrina,<sup>7</sup> one of the issues raised is whether Congress might consider legislation authorizing courts affected by natural and man-made disasters to meet outside the geographic boundaries of their circuits or districts. In emergency conditions created due to a natural or man-made disaster, a federal court facility in an adjoining district or circuit might be more readily and safely available to court personnel, litigants, jurors, and the public than a facility within the district. The Judicial Conference of the United States, which makes policy for the federal courts, asked Congress in June 2005 to pass emergency legislation to allow courts to shift court proceedings temporarily into adjacent judicial districts when emergency circumstances require it and again in September following Hurricane Katrina. The proposed legislation is similar to language contained in section 15 of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. H.R. 3650, introduced on September 6, 2005, would allow U.S. courts to conduct business during emergency conditions.<sup>8</sup>

## Actions by the Administrative Office of the U.S. Courts

Prior to September 2001, the federal judiciary engaged in routine efforts to improve physical security in court facilities. Under guidance by AOUSC, it was recommended that each judicial district convene a security committee that would be responsible for developing district-wide plans and procedures in conjunction with USMS. Additionally, AOUSC recommended that each court facility should maintain an occupant emergency plan that outlines procedures to be followed “in the event of a natural disaster or security problem.”<sup>9</sup> The extent to which these recommendations were implemented in judicial districts varied, and specific details regarding security changes, are not publicly available.

Following the attacks, AOUSC took several steps to prepare the courts to respond to potential interruptions. AOUSC created an Office of Emergency Preparedness to assist courts in the development of their own crisis response and COOP plans. Also, the office supplied courts with guidelines for handling mail to minimize potential exposure to anthrax. Acting on policies adopted by the Judicial Conference, AOUSC staff made arrangements for a contractor to test courthouses for potentially dangerous biological and chemical hazards.<sup>10</sup>

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<sup>7</sup> Federal courthouses in New Orleans, Louisiana; Mobile, Alabama; and Gulfport, Mississippi were rendered inoperable due to the effects of the storm.

<sup>8</sup> See CRS Report RS22244, *Legislative Initiatives to Temporarily Relocate Federal Courts Interrupted by Natural or Man-made Disasters, 109th Congress*, by R. Eric Petersen for details of the progress of H.R. 1751 and H.R. 3650.

<sup>9</sup> “Judiciary Looks To Security Following Attacks,” *The Third Branch*, vol. 33 no. 10, Oct. 2001, available at [<http://www.uscourts.gov/ttb/oct01ttb/october01.html#secure>], visited Sept. 8, 2005.

<sup>10</sup> Administrative Office of the U.S. Courts, *Activities of the Administrative Office of the* (continued...)

In an October 2001 memorandum, Leonidas Ralph Mecham, director of AOUSC, strongly recommended the designation of a senior court executive in each court to coordinate and be responsible for developing appropriate procedures for emergency preparedness, including COOP. The memorandum recommended that the courts coordinate their planning activities with the Federal Emergency Management Agency (FEMA)<sup>11</sup> and local federal executive boards, associations, and councils.<sup>12</sup> Contacts with local police, fire and public health officials also were suggested.<sup>13</sup> The memorandum recommended that courts ensure that an occupant emergency plan be established by the relevant authority, and that a judicial COOP plan be put in place for each facility occupied by a judicial branch unit.

**Occupant Emergency Program Plans.** The Mecham memorandum described the occupant emergency plan (OEP) as an emergency response program that “establishes procedures for safeguarding lives and property during emergencies in particular facilities.” Because the federal judiciary frequently is a tenant in the GSA-owned or leased buildings it occupies, including federal courthouses, OEP planning is typically instituted under the auspices of GSA. Referring to the Federal Property Management Regulations (FPMR) issued by GSA, the memorandum indicated that an OEP might address two main issues involving the development of procedures to protect life and property, and the formation of a local occupant emergency organization (OEO) designated to undertake certain emergency response duties in the event of an incident. Among the responsibilities of GSA is the identification of a “designated official” responsible for the OEO and OEP in GSA-owned or leased facilities. The Mecham memorandum notes that in court facilities, that official is usually the chief judge on site.<sup>14</sup>

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10 (...continued)

*U.S. Courts: Annual Report of the Director Leonidas Ralph Mecham, 2001* (Washington, 2002), available at [<http://www.uscourts.gov/dir-rpt/report2001.pdf>], visited Sept. 8, 2005.

11 In the executive branch FEMA is responsible for formulating guidance and establishing common standards for executive branch agencies to use in developing viable, executable COOP plans; facilitating interagency coordination; and overseeing and assessing the status of COOP capabilities in executive branch agencies. Executive branch COOP activities are discussed in CRS Report RL32752, *Continuity of Operations (COOP) in the Executive Branch: Issues in the 109th Congress*, by R. Eric Petersen, and CRS Report RL31857, *Executive Branch Continuity of Operations (COOP): An Overview*, by R. Eric Petersen.

12 Leonidas Ralph Mecham, Director, AOUSC, “Emergency Preparedness in the Judiciary (URGENT INFORMATION),” Memorandum to all Chief Judges, United States Courts,” (hereafter Mecham preparedness memorandum), Oct. 17, 2001, pp. 1-3. According to the memorandum, the federal executive boards are composed of field office agency heads of executive branch agencies, and military commanders in 28 cities that are major centers of federal activity. Federal executive associations and councils are organizations of local principal officers in other locales.

13 See “Emergency Preparedness in the Judiciary,” *The Third Branch*, available at [<http://www.uscourts.gov/ttb/nov01ttb/emergency.html>], visited Sept. 8, 2005.

14 FPMR are codified in Title 41, Code of Federal Regulations. Since the Mecham memorandum was released, GSA has revised FPMR to reflect changes in organizational structure resulting from the creation of the Department of Homeland Security and the (continued...)



**Continuity of Operations Plans.** COOP planning refers to the internal effort of an organization, such as a branch of government, court, or office, to assure that the capability exists to continue essential operations in response to a comprehensive array of potential operational interruptions. While much of the renewed impetus for COOP planning focuses on responding to potential attacks, the highly decentralized nature of the federal courts suggests that all but the most widespread interruptions are unlikely to disable the entire judiciary. Nevertheless, localized operational interruptions that could necessitate the activation of a COOP in the judiciary might include routine building renovation or maintenance; mechanical failure of heating or other building systems; fire; and inclement weather or other acts of nature. Other events that may interrupt federal judiciary activity include failure of information technology (IT) and telecommunications installations due to malfunction or cyber attack.<sup>15</sup> The Mechem memorandum established three purposes for judicial branch COOP planning. These were designed to ensure

- safety and well-being of employees, visitors, and the public;
- essential functions and activities are conducted without unacceptable interruption; and
- normal operations are resumed as quickly, safely, and efficiently as possible.

The memorandum also specified several topics that might be included in contingency planning:

- plan responsibility and scope;
- emergency telephone numbers;
- building and occupant information;
- procedures for periods when facilities are closed;
- communications;
- mail delivery;

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<sup>14</sup> (...continued)

transfer of FPS to the new department. Emergency preparedness officials at AOUSC report that further guidance from GSA and FPS is pending. For a broader discussion of preparedness issues related to evacuation and other emergency planning in all three branches of the federal government, see CRS Report RL31739, *Federal Agency Emergency Preparedness and Dismissal of Employees*, by L. Elaine Halchin.

<sup>15</sup> A cyber attack is an incursion on a range of IT facilities, and can range from simply penetrating a system and examining it for the challenge, thrill, or interest, to entering a system for revenge, to steal information, extort money, cause deliberate localized harm to computers, or damage to a much larger infrastructure, such as telecommunications facilities. See CRS Report RL31787, *Information Warfare and Cyberwar: Capabilities and Related Policy Issues*, by Clay Wilson.

- the establishment and staffing of a command center team of employees and appropriate staff from other agencies, such as, in the case of the courts, USMS, FPS, and GSA, that would have the responsibility for implementing emergency response procedures or tasks; and
- responses to specific types of emergencies, including fire, hazardous materials, threats, attacks and natural disasters.

In June 2002, AOUSC awarded a contract to Booz, Allen, Hamilton to develop model COOP plans for the federal judiciary. Beginning in the Second Circuit Court of Appeals and the Southern District of New York, the contractors gathered information through interviews and questionnaires to develop a series of templates that the courts could use to develop their COOP plans. The Second Circuit and the District Court for the Southern District of New York were chosen because of their experiences following September 11, 2001, when they successfully reestablished normal court functions in the aftermath of attacks on the World Trade center.<sup>16</sup> Three model plans, covering appeals, district, and bankruptcy courts, were developed to assist court administrators in their COOP planning. These plans were distributed to circuit and district courts in November 2002. Each sample plan identified 10 essential matters to be considered in developing an effective judicial COOP plan. These matters include the following:

- identification of all essential activities and functions;
- identification and protection of vital records, systems, and equipment;
- determination of succession and delegations of authority;
- identification and preparation of alternate work sites;
- identification and training of a team of employees to perform essential activities in an emergency;
- development of a system of warning to alert employees, visitors, and the public of potential threats and what to do in an emergency;
- development of a system for identifying the location and status of employees following an emergency;
- development of ways to communicate with employees, visitors, and the public after an emergency;

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<sup>16</sup> “Court Continuity of Operations Plans Get Assist,” *The Third Branch*, vol. 34 no. 6, July 2002, available at [<http://www.uscourts.gov/ttb/july02ttb/essentials.html>], visited Sept. 8, 2005.

- development of a system for restoring normal functions as soon as practicable; and
- establishment of regular COOP training and exercise.<sup>17</sup>

Following the distribution of the model plans to all court units, representatives from all the circuit courts of appeals and of representatives of several court advisory groups received training to develop individual court COOP plans. The two-day training workshop introduced court staff to the nature, function, and details of COOPs, discussed the specific model COOP for courts of appeals, and offered strategies to customize the model plan and implement it in individual courts. As plans are developed and deployed, some circuits have chosen to appoint emergency preparedness coordinators to oversee COOP planning efforts. Others have incorporated the planning into other routine administrative activities. The extent to which COOP plans are being implemented in judicial circuits and districts varies, and specific details regarding COOP operational details, including spending, planning, and training are not publicly available.<sup>18</sup>

In September 2002, The Judicial Conference of the United States approved the concept of an off-site court operations support center, and authorized the release to Congress of a report entitled, “Court Operations Support Center and Continuity of Operations Housing Plan,” based on a study conducted by an outside expert retained by the courts. The study reportedly addresses the feasibility, requirements, costs, and benefits of establishing an off-site facility. At the same meeting, the Judicial Conference approved funding for the FY2003 start-up costs for the center.<sup>19</sup>

In the FY2003 consolidated appropriations conference report, conferees recommended that the judiciary consider establishing a court operations support center located outside of Washington, DC, based on the findings of the report. This leased facility, to be located at least 20 miles outside of Washington, DC, would help ensure continuity of operations in the event that administrative and automation support functions are shut down as a result of the closure of the Thurgood Marshall Federal Judiciary Building (TMFJB) located near Capitol Hill. According to the conference report, the study recommends that this facility be within a reasonable travel range of the TMFJB so that it can be utilized by essential AOUSC and court staff in the event that their facilities located in Washington, DC, are shut down. The conferees expected the costs of this facility to be absorbed within existing available resources as proposed by the judiciary. The conferees encouraged the judiciary to

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<sup>17</sup> Ibid.

<sup>18</sup> This information was developed from discussions with the staff of the Office of Emergency Preparedness of the AOUSC, May-June, 2003.

<sup>19</sup> U.S. Judicial Conference, *Report of the Proceedings of the Judicial Conference of the United States*, Sept. 24, 2002, at [<http://www.uscourts.gov/judconf/sept02proc.pdf>], visited Sept. 8, 2005.

find alternative uses for the facility during nonemergency periods,<sup>20</sup> but noted that the primary design goal of the facility should be continuity of operations.<sup>21</sup>

In testimony regarding its FY2004 budget request, AOUSC pledged to work quickly to establish the facility and keep the committee apprised of its progress. <sup>22</sup> Following committee guidance, AOUSC discussed design parameters of a Court Operations Support Center (COSC) with an outside consultant. According to testimony regarding its FY2005 budget request, the COSC was to serve as a comprehensive backup facility that could support critical court operations in the event that an operational interruption precludes access to TMFJB. In addition to the data center, the COSC was expected to house an emergency communications center, and telework opportunities for AOUSC staff year-round. Once operational, the COSC was expected to provide

- integrity and access to Judiciary-wide data processing systems, computer based systems, intra/Internet access and information technology infrastructure;
- payroll and benefits processing for judges and judiciary staff, and
- central financial operations, bill payment, panel attorney reimbursement, and support for judicial officer retirement trust funds.

A location site for the COSC was selected in the suburbs of Washington, DC. According to congressional testimony, construction within the leased space was to have begun in March 2004, and was scheduled to be completed in May 2004. The facility was expected to be fully operational by late summer.<sup>23</sup>

<sup>20</sup> According to the conference report, alternative uses for the proposed facilities included transferring portions of the courts' payroll processing, financial disbursing, and information technology support the new facility as well as developing telework opportunities.

<sup>21</sup> U.S. Congress, Conference Committees, *Making Further Continuing Appropriations For the Fiscal Year 2003, and For Other Purposes*, conference report to accompany H.J.Res. 2, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 108-10 (Washington: GPO, 2003), pp.736-737; also available at [[http://www.congress.gov/cgi-lis/cpquery/R?cp108:FLD010:@1\(hr010\):](http://www.congress.gov/cgi-lis/cpquery/R?cp108:FLD010:@1(hr010):)], visited Sept. 8, 2005.

<sup>22</sup> Unpublished statement of Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts, House Committee on Appropriations, Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., Mar. 27, 2003, pp.16-17.

<sup>23</sup> Statement of Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts, House Committee on Appropriations, Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., Mar. 11, 2004; retrieved through *CQ.com*, available at [<http://www.cq.com/display.do?dockkey=/cqonline/prod/data/docs/html/testimony/108/testimony108-000001051634.html@testimony&meta pub=CQ-TESTIMONY&seqNum=2&searchIndex=2>], visited Sept. 8, 2005.

Other COOP-related activities carried out in FY2003 and FY2004 included the development of federal court COOP plans designed to continue delivery of critical court services in the event of natural or manmade disasters and civic emergencies. With guidance from AOUSC several courts have begun testing and validating local COOP plans, and have been provided with enhanced emergency communications systems and tools. In addition, an instructional CD-ROM is being developed to guide court security planning and testing.<sup>24</sup>

In the *2004 Year-End Report on the Federal Judiciary*, Chief Justice William Rehnquist reported that emergency preparedness and continuity of operations remained high priorities for the AOUSC, and that “significant progress was made in 2004 in making courts safer and in ensuring their continued and effective operation in the event of a crisis.”<sup>25</sup>

## Issues

Policy questions and issues will likely arise as Congress examines the status of COOP planning in the federal courts and the implications of that planning for overall judiciary emergency preparedness. Some of the issues regarding judicial COOP planning include the following.

**Role of the Courts in an Emergency.** The Constitution mandates the Supreme Court of the United States and prescribes the statutory establishment of inferior federal courts. It is, however, silent regarding the continued functioning of the federal judiciary during or after an incapacitating operational interruption. If a localized interruption occurs, courts in the affected area could move judges and other court personnel to judicial facilities in unaffected areas, or reassign cases to other districts or circuits.<sup>26</sup> In more wide-ranging situations where federal courts could not function due to an extended interruption, the President could temporarily declare martial law and vest trial court authority in military tribunals convened by commanding officers in the field dispatched to enforce federal law.<sup>27</sup> Congress might explore through oversight what legislative and administrative mechanisms might be available in situations of extended interruption to provide for the administration of a civilian judiciary.

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<sup>24</sup> Ibid; William H. Rehnquist, “2003 Year-end Report on the Federal Judiciary,” *The Third Branch*, vol. 36, no. 1, Jan. 2004, at [<http://www.uscourts.gov/ttb/jan04ttb/iv/index.html>], visited Sept. 8, 2005.

<sup>25</sup> William H. Rehnquist, “Year-End Report on the Federal Judiciary,” *The Third Branch*, vol. 37, no. 1, Jan. 2005, at [<http://www.uscourts.gov/ttb/jan05ttb/2004/index.html>], visited Sept. 8, 2005.

<sup>26</sup> While the Supreme Court building was closed due to anthrax contamination and remediation, the Court heard arguments in another location — the ceremonial courtroom in the District of Columbia E. Barrett Prettyman Federal Courthouse. See “Disruptions Taken In Stride as Business of Government Continues,” *The Third Branch*, vol. 33 no. 11, Nov. 2001, available at [<http://www.uscourts.gov/ttb/nov01ttb/disruptions.html>], visited Sept. 8, 2005.

<sup>27</sup> 10 U.S.C. 332. See CRS Report RS21089, *Continuity of Government: Current Federal Arrangements and the Future*, by Harold C. Relyea.

**Issue Immediacy.** As the memory of dramatic interruptions such as the September 11 attacks and anthrax incidents fades, attention to administrative operations like COOP planning may receive lower priority attention in the federal judiciary. Emergency preparedness observers note that the success of contingency planning is dependent on current planning and regular drills, simulations, or other testing.

**Budgetary Constraints.** The current budgetary environment is characterized by limited resources, coupled with increased demand for a variety of homeland security protective measures, including judicial branch emergency preparedness and COOP planning. A possible consequence of the acquisition of technology, infrastructure, and supplies, such as those that might go into AOUSC's operations support center, is the likelihood that such an allocation might reduce resources available for routine court operations.

## Policy and Oversight Questions

Judicial branch OEP and COOP planning raise several questions related to the oversight of underlying policy matters. Some of these questions include the following:

- How are judicial COOP plans maintained? Where are they physically located, and what provisions are in place for accessing plans in the event of an interruption?
- What is the general level of preparedness in the judiciary to carry out COOP plans?
- What is the capacity for GSA to support the establishment and deployment of OEP plans in court facilities?
- What plans do courts have in place to ensure that they can continue to carry out their constitutional and statutory duties in the event of an incident that could potentially disrupt those operations for undetermined periods of time? Which circuits or districts have established effective COOP programs? To what extent have those plans been implemented or exercised and practiced?
- How have various plans been upgraded in the aftermath of the autumn 2001 attacks? Have those plans been evaluated, and by what organizations?
- Because COOP plans are typically customized to preserve an organization's unique operational needs, how can effective emergency planning in the courts be evaluated? What standards are to be imposed?
- What are the costs of relocating courts to alternate facilities or other court houses?

- What procedures are in place to maintain electronic data held by the courts? How can these resources be accessed if court facilities are unavailable?
- What provisions are in place for alternate computing facilities, including offsite storage for each court facility?
- What has been the effect of OEP and COOP planning on day-to-day personnel, office, and technological management?
- What are the implications of COOP planning in relation to record keeping and archiving of paper-based and electronic information?
- Have FEMA and GSA been effective in supporting the judiciary as it develops COOP plans? What are the consequences of incorporating FEMA into the Department of Homeland Security for government-wide COOP management and administration?

## Related CRS Products

### Continuity of Operations

CRS Report RS22244. *Legislative Initiatives to Temporarily Relocate Federal Courts Interrupted by Natural or Man-made Disasters, 109th Congress*, by R. Eric Petersen.

CRS Report RL32752. *Continuity of Operations (COOP) in the Executive Branch: Issues in the 109th Congress*, by R. Eric Petersen.

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